

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CWP-22032-2021 (O&M)
Decided on : December 13, 2021**

M/s DSV Solutions Private Limited

....Petitioner

VS

The Union of India and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Pawan Kumar Pahwa, Advocate
for the petitioner.

Mr. Rishabh Kapoor, Senior Standing Counsel
for the respondents.

AJAY TEWARI, J.(Oral)

1. This writ petition has been filed for quashing and setting aside the rejection of declaration in Form SVLDRS 1 ARN No. LD3012190012657 dated 30.12.2019 filed by the petitioner (Annexure P-1).

2. On 1.11.2021 the following order was passed :-

The primary contention raised by the learned counsel for the petitioner is that his application for availing the benefits under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 has been rejected on two hypothetical grounds. Firstly, the petitioner inadvertently mentioned appeal rather than show cause notice and secondly, instead of filing two declarations for the two show cause notices he moved only one declaration.

Notice of motion.

On asking of the Court, Mr. Rishabh Kapoor, Senior Standing counsel appears and accepts notice on behalf of respondents and seeks some time to file reply.

Adjourned to 9.11.2021.”

3. Today, the written statement has been filed on behalf of respondents No.1 to 4 wherein these facts have not been disputed, the same is taken on record.

4. Learned counsel for the petitioner has relied upon a judgment of this Court passed in the matter of ***Loyalty Solutions and Research Pvt. Ltd. vs. Union of India*** reported as ***2021(47) G.S.T.L. 11 (P&H)***

The paragraph No.9 of the judgment is as follows :-

“9. To be fair to the counsel for the respondent, we deal with his argument that intention of legislature cannot be gone into if language is plain and unambiguous especially in taxation matters. The scheme in question is not a piece of taxation legislation, instead, it is a piece of beneficial legislation for Union as well dealers/assessee. The Government is getting revenue without litigation and assessee is getting immunity from partial tax liability as well as interest and penalty, thus there is win-win situation for both sides. The Amnesty Scheme was launched to minimize litigation and respondent seems to unnecessarily dragging the matter. The hyper technical approach of the officials/authorities is contrary to the intent and purport of the beneficial scheme and the mandate of the Parliament. The [Finance Act](#) has excluded various categories of persons from the scheme and it is undisputed that petitioners fall within category of eligible persons. It is settled law even under taxation that if a person is eligible to one or another benefit, he should not be denied said benefit on procedural or technical grounds. The requirement of strict compliance of conditions is necessary to ascertain

eligibility, however procedural formalities need not to be strictly complied with. Filing of one or more declarations has been prescribed by Rules whereas conditions of eligibility have been prescribed by Finance Act, 2019. The filing of separate declaration is not even condition whereas it is sort of procedure. Once an assessee complies with conditions prescribed by Finance Act, 2019 and no prejudice is caused to the revenue by filing of single declaration instead of multiple, we do not find any reason to deny benefit on the ground of non-compliance of any condition which is purely procedural in nature. Our findings are fortified by recent judgment of Hon'ble Supreme Court in L & T Housing Finance Ltd. Versus Trishul Developers and another (2020) 10 SCC 659, wherein it has been held that an action cannot be held to be bad in law merely on raising a trivial objection which has no legs to stand unless the person is able to show any substantial prejudice. In the present case, no prejudice has been or would be caused to the Revenue and if at all, severe prejudice would be caused to the petitioner in case his prayer is not accepted, in the light of the object of the Amnesty Scheme by permitting adoption of hyper technical approach.”

5. He has further relied upon the judgment of the Guwahati High Court passed in **Assam Cricket Association versus Union of India** reported as **2020 (38) G.S.T.L. 579 (Gau.)**. The paragraph No.7 and 8 of the judgment is as follows :-

7. *In the circumstance, we are required to look into the matter from the perspective as to whether by not mentioning the penalty in the Form SVLDRS-1, the petitioner had committed an incurable mistake so as to disentitle the petitioner from the benefits under the Scheme 2019 or the mistake that was made can be allowed to be corrected. Apparently, a mistake made can be of two different types, one being a mistake based upon which a legal right is claimed so*

that the mistake made can be construed to be an act of misleading the authorities to claim a benefit which otherwise a party is not entitled or the mistake made was more of inadvertent nature, which can also be terms as a callous mistake, which does not put the party making such mistake on an undue advantageous position so as to make them entitled to a benefit which they are otherwise not. A mistake that was deliberately made to claim an undue benefit which the party was otherwise not entitled, would definitely have to be construed to be an incurable mistake but at the same time an inadvertent mistake which may also creep in due to an oversight or because of a callous attitude of the person making the claim but the ultimate result of such mistake would not accrue a benefit which he otherwise would not have been entitled can be accepted to be a curable mistake.

8. *In the instant case, the mistake made by the petitioner was that the penalty imposed was stated to be zero whereas it is already on record that the respondent authorities had imposed a penalty of Rs.11,48,82,644.00 (Rupees Eleven Crore Forty Eight Lakhs Eighty Two Thousand Six Hundred Forty Four). In our view the mistake made by the petitioner by not stating about the penalty imposed upon them in Form SVLDRS-1 cannot be said to be a mistake by which the petitioner claimed an undue benefit which they otherwise are not entitled under the law. When we look into the Scheme 2019, we do not find any provision which provides that a person upon whom a penalty is imposed would not be entitled to the benefit given under the scheme. Infact on the contrary the provision of the Scheme 2019 may be such that the benefit of exemption, may even be applicable to the amount of penalty imposed, in which event, the petitioner assessee may be more benefited and would be entitled to a greater exemption if the amount of penalty was mentioned rather than not mentioning the penalty.*

6. We find that the facts of the present case are covered by the above-mentioned two judgments.
7. In these circumstances, the present petition stands allowed and the impugned action of the respondents in setting aside the rejection of declaration in Form SVLDRS 1 is set aside and respondents are directed to consider the application on merits.
8. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

December 13, 2021
anuradha

Whether speaking/reasoned	-	Yes
Whether reportable	-	No